

GAHC010005532023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./112/2023

ASATON NESSA@ACHATON NESSA AND ANR
W/O- UMED ALI, VILL- KATHALDI PT-I, P.O AND P.S- BILASIPARA, DIST-
DHUBRI, ASSAM

2: SOLIM UDDIN FAKIR
S/O- JOYNAL FAKIR
VILL- KAJAIKATA PT-V
P.S- BILASIPARA
DIST- DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

23.01.2023

Heard Mr. M.I. Hussain, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Addl. P.P. appearing for the State respondent.

The petitioners, namely, (1) Asaton Nessa @ Achaton Nessa and (2) Solim Uddin Fakir have filed an application under Section 439 Cr.P.C. with prayer for bail in connection with Bilasipara P.S. Case No. 347/2022 under Sections 143/420/406/489(B) IPC.

It is submitted on behalf of the petitioners that the petitioners have been languishing in the jail for 73 days since 12.11.2022.

It is also submitted that on the 1st day of forwarding the petitioners to jail, the I.O. has not sought for police custody and had recommended the petitioners to be forwarded to the judicial custody.

It is also submitted that the petitioners are entitled to bail on the ground of parity as the main accused Jiyaur Khan has already been released on bail in connection with Bail Appln. No. 3437/2022.

The learned Addl.P.P. Mr. B. Sharma has raised serious objection stating that the petitioner No.1 operates with her associates from her residence and fake currencies were recovered from her residence. This case is not similar to the case where the main accused Jiyaur Khan was enlarged on bail. It is submitted that the petitioners are not entitled to bail because the statements of witnesses under Section 161 Cr.P.C clearly reveals that the petitioner No. 1 has been operating from her residence in such nefarious activities of circulating fake currencies. Moreover fake Indian currencies to the tune of Rs. 1,39,000/- (Rupees One Lakh Thirty Nine Thousand) only, was already recovered.

I have perused the case diary. There are indeed cogent materials in the case diary against the petitioners. It appears that further detention for the sake of investigation does not appear to be necessary at this stage. Although some accused persons are yet to be arrested, the investigation has progressed substantially. It appears that investigation will not adversely affect, if the

petitioners are admitted to bail.

Considering all aspects, petition is allowed.

The petitioners, namely, (1) Asaton Nessa @ Achaton Nessa and (2) Solim Uddin Fakir are enlarged on bail in connection with Bilasipara P.S. Case No. 347/2022 under Sections 143/420/406/489(B) IPC, on furnishing bail bond of Rs.35, 000/- each with one suitable surety of like amount to the satisfaction of the Jurisdictional Court.

The bail is granted on the following conditions:

1. the petitioners will co-operate with the remaining part of the investigation;
2. the petitioners will refrain from such activities with which they are alleged;
3. the petitioners will not leave the jurisdiction of the trial Court without prior permission till completion of investigation;

Send back the case diary.

The application stands disposed of.

JUDGE

Comparing Assistant